

APPEAL NO. 030262
FILED MARCH 25, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 2, 2003. With respect to the disputed issues before him, the hearing officer determined that the respondent (claimant) had disability as a result of his compensable injury sustained on _____, from _____, through January 2, 2003. In addition, the hearing officer resolved that the employer tendered a bona fide offer of employment (BFOE) to the claimant effective from August 31, 2002, through January 2, 2003. The appellant (carrier) appeals the disability determination on sufficiency of the evidence grounds. There is no response in the file from the claimant. As neither party appealed the BFOE determination, it has become final under Section 410.169.

DECISION

Affirmed, as modified.

The hearing officer did not err in determining that the claimant had disability from _____, through January 2, 2003, as a result of the compensable injury sustained on _____, when he cut his right thigh with a circular saw. The claimant testified that his pain was so severe his mobility was glaringly limited, and his treating doctor took him off work on August 20, 2002. The carrier presented evidence that the claimant had some ability to work and was released to light duty. Such evidence is not dispositive to a finding of disability. Under the 1989 Act, the hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The hearing officer was acting within his province as the fact finder in resolving the evidence in favor of the claimant and nothing in our review of the record demonstrates that the hearing officer's determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We hereby modify Finding of Fact No. 3 to read: "The claimant has been unable to obtain and retain employment at his pre-injury wages from _____, to the present due to the compensable injury." We believe that since all other references to the period of disability began with a date of "_____", then the "August 20, 2002," reference was in error.

The hearing officer's decision and order is affirmed, as modified.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
AUSTIN, TEXAS 78701.**

Terri Kay Oliver
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge